

UNITED STATES OF AMERICA )

v. )

Manning, Bradley E. )  
PFC, U.S. Army, )  
HHC, U.S. Army Garrison, )  
Joint Base Myer-Henderson Hall )  
Fort Myer, Virginia 22211 )

Prosecution Notice

Potential Rebuttal Case

15 August 2013

**RELIEF SOUGHT**

The prosecution in the above case respectfully requests the Court permit the United States to elicit the below-listed information to rebut the matters presented by the defense in their sentencing case. *See* RCM 1001(d).

**STANDARD**

Government rebuttal evidence must "explain, repel, counteract or disprove the evidence introduced by the opposing party." *United States v. Wirth*, 18 M.J. 214, 218 (CMA 1984).

**FACTS**

PFC Bradley Manning was found guilty of sixteen specifications as charged and four specifications by exceptions and substitutions and/or lesser-included offenses. *See* Appellate Exhibit (AE) 624. The prosecution rested its sentencing case on 9 August 2013. The defense rested its sentencing case on 14 August 2013.

**WITNESSES/EVIDENCE**

Witnesses:

SA David Shaver

Evidence:

Email between PFC Manning and (b) (7)(C), dated 28 November 2009 (from PFC Manning's Personal Mac)

Summary of emails between PFC Manning and (b) (7)(C), dated between 23 August 2009 and 20 May 2010 (from PFC Manning's Personal Mac)

Chats between PFC Manning and (b) (7)(C), dated 18 March 2010 (from PFC Manning's Personal Mac)

OTR configuration file showing encryption contacts, file created on 25 January 2010 and last written on 24 May 2010 (from PFC Manning's Personal Mac)

**POTENTIAL REBUTTAL**

The United States will re-call SA Shaver to discuss an email the accused sent to (b) (b) (7)(C), dated 28 November 2009. The email includes the following text, "Hey Babe, I'm sorry I couldn't get in touch with you on Thanksgiving. I was very busy indeed, but I still had the chance to have dinner among good friends who I'm out to (I didn't even have to come out to them, they just called me out on it.)" The email reveals that PFC Manning is open and friendly with individuals in his unit. This counteracts the testimony of CPT Worsley that PFC Manning was isolated in his unit, that PFC Manning had no support mechanisms within the military, and that the military was not friendly toward the gay community.

The United States will re-call SA Shaver to testify that PFC Manning's computer contained emails between PFC Manning and (b) (7)(C), dated between 23 August 2009 and 20 May 2010; remnants of chats between PFC Manning and (b) (7)(C), dated 18 March 2010; and a version of the Adium Buddy List from PFC Manning's personal computer, which includes the contacts "(b) (7)" and "(b) (7)(C)", with a file created date of 25 January 2010 and a last written date of 24 May 2010. This testimony counteracts the testimony of Dr. Moulton that PFC Manning had very limited resourcing to where he felt he could turn and that PFC Manning told Dr. Moulton that if he could have only been able to contact (b) (7)(C), he may not have done what he did. The email traffic reveals that Dr. Moulton based his conclusions on what PFC Manning told him, and that what PFC Manning told Dr. Moulton was not necessarily true.

### CONCLUSION

Since the above-listed evidence goes directly to explain or contradict evidence raised by the defense in their sentencing case, the prosecution should be permitted to raise the evidence in rebuttal.



ANGEL M. OVERGAARD  
CPT, JA  
Assistant Trial Counsel

I certify that I served or caused to be served a true copy of the above on the Defense Counsel, via electronic mail, on 15 August 2013.



ANGEL M. OVERGAARD  
CPT, JA  
Assistant Trial Counsel